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Intelligence Bill Said Civil Liberties Peril

By George Lardner Jr.

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Officials of the American Civil Liberties Union warned yesterday that the Senate-proposed charter for the nation's intelligence agencies is "more of a threat to civil liberties than it is a reform."

Testifying before the Senate Intelligence Committee, ACLU legislative counsel Jerry Berman charged that the omnibus bill before the committee—had it been law at the time—"would have legitimized" many of the abuses uncovered in the 1975-76 inquiry headed by Sen. Frank Church (D-Idaho).

Although the bill has been introduced as a reform of the CIA, the FBI, and other U.S. intelligence agencies, Berman protested that it also gives the CIA "broad authority" to conduct domestic spywork that is currently prohibited and it allows the FBI to carry out so-called "preventive actions" that could turn into smear campaigns.

For instance, Berman said, the new bill (S. 2525) would have sanctioned both the CIA's Operation Chaos, as an effort "to determine the possible connections of the antiwar movement," and the FBI's campaign to discredit the Rev. Martin Luther King, as a device "to prevent violence" in the civil rights movement.

Summed up John Shattuck, director of the Washington ACLU office: "The bill, as it now stands, is more of a threat to civil liberties than it is a reform."

The ACLU, the committee was told, wants to work with the senators to draft an acceptable bill but is prepared to do whatever it can to defeat the proposed bill or any legislation that the ACLU says sacrifices constitutional values while masquerading as reform.

Although usually described as a "foreign intelligence" measure, the bill before the committee, Berman pointed out, permits wide-ranging, highly intrusive investigations of Americans under a variety of rationales. Techniques could range from pretext interviews to surreptitious entries and other methods "heretofore assumed to be illegal," Berman said.

By contrast, another witness at yesterday's hearing, former Deputy Attorney General Laurence H. Silberman, maintained that the conditions laid out in the bill for initiating any counterintelligence activity are "tied

too closely" to violations of criminal law.

"... The fact that a group has not yet crossed the line between legal activity and criminal conduct should not prohibit the FBI from collecting any information concerning that group if it can be reasonably expected that they may cross the line," Silberman, who is now a senior fellow with the American Enterprise Institute, argued.

Most of the witnesses at the Senate hearings on the measure, which began in April, have criticized it on behalf of the intelligence establishment as too restrictive and harsh on the CIA and fellow agencies. Yesterday's testimony by the ACLU was the most outspoken attack on the measure thus far from the civil libertarian point of view.

"I guess we're on the horns of a dilemma," committee chairman Birch Bayh (D-Ind.) said in somewhat perplexed tones. He said it was clearly going to take a lot of persistence to get an acceptable bill through Congress in light of the assaults on the measure from both left and right.

Sen. Barry Goldwater (R-Ariz.) said he felt the biggest problem, for which he had no solution, was how to keep American presidents from misusing the intelligence agencies. "How to control a president who, for one reason or another, wants to get even" with his political enemies.

"I'm not talking about Republicans or Democrats. They've all done it," Goldwater said.

Accompanying the ACLU's complaints with detailed analysis, Berman suggested that the underlying problem with the bill is its "backwards" approach to intelligence work, permitting Americans to be targeted on flimsy grounds instead of focusing on foreign governments and hostile intelligence services.

Berman said this was the same approach used by the CIA in Operation Chaos which concentrated first on the domestic antiwar movement "in order to learn of travel and foreign contacts and then to investigate the possibility that those Americans were supported or controlled by foreign powers."

In other words, Berman said, "Operation Chaos worked backwards. And so did the FBI in conducting its 'new left' investigations... The efficacy of this approach, which attempts to prove a negative, is open to question. That it is very sweeping and intrusive is not."

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